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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,890	09/09/2003	Robert J. McKinnon	3170-19	3206

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EXAMINER

SZMAL, BRIAN SCOTT

ART UNIT	PAPER NUMBER
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3736

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/658,890	Applicant(s) MCKINNON ET AL.	
	Examiner Brian Szmaj	Art Unit 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,7,8,10,13,15 and 16 is/are rejected.
- 7) ☒ Claim(s) 3,5,6,9,11,12,14,17 and 18 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9-9-03</u> . | 6) <input type="checkbox"/> Other: ____. |

Specification

1. The abstract of the disclosure is objected to because the abstract exceeds 150 words. Correction is required. See MPEP § 608.01(b).

Claim Objections

2. Claim 17 is objected to because of the following informalities: In line 2, ".plunger." should read as "plunger". Appropriate correction is required.
3. Claim 18 is objected to because of the following informalities: The claim is objected to due to the claim not providing a further limitation for the method of sterilizing the syringes. The claim appears that it should depend upon Claim 10 instead of Claim 15. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 4, 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Caselgrandi et al (4,542,749).

Caselgrandi et al disclose a syringe for use in a biopsy and further disclose a syringe body that includes an outer member (2) having a distal end and a proximal end and an inner member having a distal end and a proximal end; a bridge (4) integrally formed with

the inner (3) and outer members (2) and disposed between the proximal and distal ends thereof that joins the inner (3) and outer members (2) together; a vent (22) that allows air to escape and being joined to at least one of the inner (3) and outer members (2); the bridge (4) is more adjacent to the distal ends than the proximal ends; the syringe is a first syringe and further including a second syringe joined to the first syringe for at least one of: creating negative pressure to draw blood into the first syringe and providing positive pressure to cause blood to move from the first syringe; the bridge (4) is spaced from the distal ends of the inner (3) and outer members (2); and the proximal end of the inner member (3) is substantially coterminous with the proximal end of the outer member (2). See Figures 2 and 5.

6. Claims 10 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Motta (5,032,117).

Motta discloses a tandem syringe and further discloses providing a first syringe; coupling a second syringe to the first syringe; controlling blood flow relative to the first syringe using the second syringe; and causing blood to flow from the first syringe in order to test the blood. See Figures 2 and 3.

7. Claims 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Goodsir et al (4,753,345).

Goodsir et al discloses a hypodermic syringe tray and further disclose providing a plurality of syringes including at least a first and second syringes in a container, the first and second syringes being adjacent to each other and being free of any package that separates the first and second syringes from each other; sterilizing the plurality of

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syringes in the container; and each of the first and second syringes has a distal end adjacent to which a distal cap is joined before the sterilization. See Column 1, lines 37-47; Column 2, lines 6-34; and Figure 1.

Allowable Subject Matter

8. Claims 3, 5, 6, 9, 11, 12 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Szmalec whose telephone number is (571) 272-4733. The examiner can normally be reached on Monday-Friday, with second Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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